



March 6, 2009

Office of the Comptroller of the Currency
250 E Street, SW., Mail Stop 1-5
Washington, DC 20219.
Docket ID OCC-2008-0027

Jennifer J. Johnson, Secretary,
Board of Governors of the Federal
Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket No. OP-1349

Robert E. Feldman, Executive Secretary
Attention: Comments, RIN number 3064-AC97
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429.

Regulation Comments, Chief
Counsel's Office,
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552,
Attention: ID OTS-2008-0022

To Whom it May Concern:

Developing rigorous Question and Answers interpreting the CRA regulation ensures that banks are receiving points on their CRA exam for projects that benefit low- and moderate income (LMI) individuals and communities. In the proposed two questions, the agencies propose some procedures that effectively target LMI individuals and communities, but other procedures allow an institution to claim a project benefits LMI individuals and communities by providing flimsy documentation.

NCRC and our member organizations rely upon rigorous enforcement of CRA so that banks are motivated to finance affordable housing, small business creation, and community development in LMI communities. NCRC is an association of more than 600 community-based organizations that promotes access to basic banking services, including credit and savings, to create and sustain affordable housing, job development, and vibrant communities for America's working families.

Proposed Q&A § ____ .12(g)(2)-1: Ways an Institution Can Determine if Community Services are Offered to Low- and Moderate-Income Individuals

This proposed Question and Answer (Q&A) suggests a number of ways a bank can determine if a community service is offered to an LMI individual. In general, NCRC prefers methods involving verifiable data. For example, a bank or a nonprofit partnering with the bank could collect income information of the clients of a community service and then verify that the clients were LMI per the CRA definitions of low- and moderate-income. In order to encourage data collection, the Q&A could say that more points would be awarded for community services when the bank presented data of the clients to examiners for use on CRA exams.

NCRC does not favor vague proxies for determining LMI status that rely on questionable assumptions. One of the proposed proxies is to assume clients are LMI if a nonprofit organization delivering the community service has a mission of serving LMI clients. The mission does not guarantee that the particular program serves LMI people or that a majority of the people served are LMI. An improvement over the “nonprofit mission” proxy is another proxy that assumes the clients are LMI if the program uses a government grant restricted for LMI clients. In addition, the proposed use of average wage rates for a workplace-based program is a method NCRC approves of since it is data driven and verifiable using Bureau of Labor Statistics resources. Finally, assuming clients are LMI if the nonprofit is located in a LMI neighborhood is an improvement over the “nonprofit mission” proxy but NCRC would still prefer some data and evidence that the clients were actually LMI.

Proposed Revision to Q&A § ____ .12(h)-8 – Pro Rata Consideration for Community Development Loans

Currently, the agencies allow a bank to claim the entire loan as a community development loan on CRA exams if the majority of dollars of a loan are for a community development purpose. Alternatively, when the majority of dollars are not for a community development purpose, the entire loan can still be counted as a community development loan if a “bona fide intent as stated in a prospectus” is for community development. NCRC suggests that the agencies delete this current procedure that relies on assertions in a prospectus or community action plan. Allowing banks to claim the entire amount of such loans as community development loans will lead to inflation of community development lending amounts and could lead to inflation of lending test ratings.

Instead, NCRC approves of the suggested option of pro rata consideration and believes that this approach should be used in all cases in which less than a majority of a loan’s dollars will be for community development. The example of a mixed-income housing development in which 10 percent of the units are for LMI borrowers presents a straightforward, fair, and non-inflationary method for determining how many dollars to

assign as community development loan dollars. NCRC agrees that the assignment of dollars should be the actual loan dollars to build the units for LMI households. In the example given, 6 percent of the dollars were actually used to build the units for the LMI households. This procedure would facilitate mixed-income developments since current procedures probably discourage banks from seeking CRA points unless the project has a majority of the dollars dedicated for community development. Also, whenever possible, this procedure should be used for non-housing projects, such as those financing small businesses since this procedure is likely to encourage banks to finance projects benefiting mixed-income populations.

NCRC appreciates the opportunity to comment on this important matter. We hope that you tighten up the two proposed Q&As along the lines we have proposed. If you have any questions, please contact myself or Josh Silver, Vice President of Research and Policy, on (202) 628-8866.

Sincerely,



John Taylor
President and CEO